

Notice of Allowability

Application No.

09/227,742

Examiner

Gerald G Leffers Jr., PhD

Applicant(s)

BLOOM ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/6/2004.
2. ☒ The allowed claim(s) is/are 45-47, 49-59, 61-71, 78, 79, 81, 82, 89 and 90.
3. ☒ The drawings filed on 26 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

Receipt is acknowledged of an After-Final Amendment, filed 4/6/2004, in which claims were cancelled (claims 72-77, 80, 85-88 and 91) and in which claims were amended (claims 78, 89 and 90). Claims 45-47, 49-59, 61-71, 78-79, 81-82, 89-90 are pending and under consideration at the time of this amendment.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michele Cimbala on 4/14/2004.

The application has been amended as follows:

In the specification:

The paragraph on page 1 of the instant specification at lines 14-18 has been deleted (i.e. the paragraph titled CROSS REFERENCE TO RELATED APPLICATION). The following paragraph has been inserted at page 1 as the first sentence of the instant specification:

--CROSS REFERENCE TO RELATED APPLICATION

This application is a continuation application of U.S. Patent Application Serial No. 08/826,426, filed March 27, 1997, now U.S. Patent No. 5,891,692, which claims priority to U.S. Provisional Application No. 60/014,330, filed 3/29/1996 and to U.S. Provisional Application No. 60/025,838, filed 9/05/1996, each of which is incorporated herein by reference.--

At page 5, line 25, the term --(Panels A-C)-- has been inserted between the terms “Figure 13” and “shows”.

In the claims:

In claim 78, line 2, the word --bacterium-- has been inserted between the words “coli” and “possessing”. Similarly, in line 4 of claim 78, the word --bacterium-- has been inserted between the words “coli” and “of”. Finally, in line 4 of claim 78, the word “are” has been deleted.

In claim 89, line 1, the word --bacterium-- has been inserted between the words “coli” and “having”.

In claim 90, line 1, the word --bacterium-- has been inserted between the words “coli” and “of”.

Reasons for Allowance

The following is an examiner’s statement of reasons for allowance: applicants’ amendment of the claims in the papers filed 4/6/2004 have obviated the outstanding grounds of rejection from the previous office action under 35 U.S.C. 112 1st paragraph.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 45-47, 49-59, 61-71, 78-79, 81-82 and 89-90 are allowed (now claims 1-31).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald G Leffers Jr., PhD whose telephone number is (571) 272-0772. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gerald G Leffers Jr., PhD
Primary Examiner
Art Unit 1636

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GERRY LEFFERS
PRIMARY EXAMINER